

**Remarks/Arguments**

Reconsideration of the above-identified application in view of the present amendment is respectfully requested.

Applicants' representative respectfully appreciate the telephone interview with respect to the above-identified application on August 22<sup>nd</sup>. During the interview, Applicants' representative indicated that although Applicants do not agree with rejections in the Office Action in order to facilitate allowance of the application, claims 1-13 would be cancelled and claim 14 would be amended to limit claim 14 to the amino sequences recited in the claim.

By the present amendment, claims 1-2, 5, 7-13, and 19 have been cancelled. Claim 14 has been amended to replace the term mammal with human, rat, or mouse subject and to limit the claims to the specific amino acid sequences. The present amendment merely cancels claims and limits the remaining claims to language suggested by the Examiner. Accordingly, the present amendment raises no new issues and therefore entry of the amendment is respectfully requested.

Below is a discussion of the 35 U.S.C. 112, second paragraph rejection of claims 5 and 7, the 35 U.S.C. 112, first paragraph rejections of claims 1-2, 5, 7, 12, 14-15, 19 and 20, and the 35 U.S.C. §103(a) rejection of claim 1.

**1. 35 U.S.C. §112 rejection of claims 1-2, 5, 7, 12, 14-15, 19 and 20**

Claims 1-2, 5, 7, 12, 14-15, 19 and 20 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for (1) a protein comprising the amino acid sequence that is at least 95% identical to a protein selected from the group consisting of SEQ ID NO: 13, SEQ ID NO: 15, SEQ ID NO:

19 and SEQ ID NO: 23 and (2) a method of inhibiting complement activity comprising administering an effective amount of a protein to a human, rat or mouse subject wherein the protein comprises the sequence selected from the group consisting of SEQ ID NO: 13, SEQ ID NO: 15, SEQ ID NO: 19, and SEQ ID NO: 23, does not reasonably provide enablement for any protein as set forth in claims 1-2, 5, 7, 12, 14-15, 19 and 20. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

As discussed above, claims 1-2, 5, 7, 12 were cancelled. Claim 14 was amended to recite a method of inhibiting complement activity comprises administering an effective amount of protein to a human, rat, or mouse subject. The protein comprises the amino acid sequence selected from the group consisting of SEQ ID NO: 13, SEQ ID NO: 15, SEQ ID NO: 19, and SEQ ID NO: 23. The Office Action acknowledges that the language now recited in claim 14 is enabled, therefore withdrawal of the enablement rejection is respectfully requested.

**2. 35 U.S.C. §112 rejection of claims 1-2, 5, 7, 12, 14-15, 19 and 20**

Claims 1-2, 5, 7, 12, 14, 15, 19 and 20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

As discussed above, claims 1-2, 5, 7, 12 were cancelled. Claim 14 was amended to recite a method of inhibiting complement activity comprises

administering an effective amount of protein to a human, rat, or mouse subject. The protein comprises the amino acid sequence selected from the group consisting of SEQ ID NO: 13, SEQ ID NO: 15, SEQ ID NO: 19, and SEQ ID NO: 23. The Office Action acknowledges on page 18 that the language now recited in claim 14 meets the written description requirement, therefore withdrawal of the written description rejection is respectfully requested.

**3. 35 U.S.C. §112 rejection of claims 1-2, 5, and 7**

Claims 1-2, 5 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As discussed above, claims 1-2, 5 and 7 have been cancelled. Therefore, withdrawal of the new matter rejection is respectfully requested.

**4. 35 U.S.C. §103 rejection of claim 1**

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 95/08570 publication (of record, published March 30, 1995; PTO 892) in view of US Pat No 6,280,732 (newly cited, issued August 2001, PTO 892) and by Harris et al (of record, J Biol Chemistry 278(38): 36068-36076, September 2003; PTO 892) or Harris et al (newly cited, Clin Exp Immunol 129: 198-207, 2002; PTO 892).

As discussed above, claim 1 has been cancelled. Therefore, withdrawal of this rejection is respectfully requested.

**5. 35 U.S.C. §103 rejection of claim 1**

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 95/08570 publication (of record, published March 30, 1995; PTO 892) in view of Harris et al (newly cited, Biochemcial Society Transactions 30(6): 1019-1025,2002; PTO 892).

As discussed above, claim 1 has been cancelled. Therefore, withdrawal of this rejection is respectfully requested.

In view of the foregoing, it is respectfully submitted that the present application is in a condition of allowance and allowance of the present application is respectfully requested.

Please charge any deficiency or credit any overpayment in the fees for this matter to our Deposit Account No. 20-0090.

Respectfully submitted,

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